

Message Text

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ACTION AF-10

INFO OCT-01 ARA-10 EA-10 EUR-12 NEA-10 IO-13 ISO-00

CIAE-00 DODE-00 PM-05 H-01 INR-07 L-03 NSAE-00

NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 HA-05

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FM AMEMBASSY PRETORIA

TO SECSTATE WASHDC PRIORITY 9493

INFO AMCONSUL CAPE TOWN

AMCONSUL DURBAN

AMEMBASSY GABORONE

USMISSION GENEVA

AMCONSUL JOHANNESBURG

AMEMBASSY LONDON

AMEMBASSY LUSAKA

USMISSION USUN NEW YORK PRIORITY

C O N F I D E N T I A L PRETORIA 6053

E.O. 11652: GDS

TAGS: PINT, WA

SUBJECT: NAMIBIA: STATUS OF OVAMBO EMERGENCY REGULATIONS

REF: PRETORIA 5964

1. SUMMARY: VARIOUS RELIABLE SOURCES INFORM US THAT PROCLAMATION R 17, THE EMERGENCY REGULATIONS FOR OVAMBO, WILL BE REPEALED IN THE IMMEDIATE FUTURE. THE EXPECTED REPEAL WILL BE A SIGNIFICANT STEP FORWARD, BUT WILL NOT AFFECT OTHER SOUTH AFRICAN LEGISLATION WITH SOME OF THE SAME REPRESSIVE PROVISIONS STILL IN FORCE IN THE TERRITORY. NEVERTHELESS, AS LONG AS AN INTERNATIONALLY ACCEPTABLE SETTLEMENT IN NAMIBIA APPEARS POSSIBLE, THE AUTHORITIES MAY BE RELUCTANT TO EMPLOY THESE LAWS. END SUMMARY.

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2. REFTTEL REPORTED THAT NAMIBIAN ATTORNEY GENERAL LATEGAN TOLD EMBOFF THAT PROCLAMATION R 17, THE EMERGENCY REGULATIONS FOR OVAMBO, HAD BEEN RESCINDED. THIS IS IN FACT NOT THE CASE, AND FOR THE MOMENT R 17 REMAINS IN FORCE. WE HAVE, HOWEVER, RECEIVED REPEATED INDICATIONS THAT THE MEASURE WILL SOON BE REPEALED (PRETORIA 5700 AND 5457). MOST RECENTLY, THE SWA DESK OFFICER AT THE SOUTH

AFRICAN DEPARTMENT OF FOREIGN AFFAIRS INFORMED US ON NOV. 8 THAT R 17 IS "IN THE PROCESS" OF BEING REMOVED, AND SAID WE CAN EXPECT SUCH ACTION "IN THE VERY NEAR FUTURE." AN OFFICIAL AT THE ADMINISTRATOR GENERAL'S OFFICE IN WINDHOEK TOLD US BY TELEPHONE THE SAME DAY THAT R 17 WILL BE REPEATED "WITHIN THE COURSE OF THE NEXT FEW DAYS." A WELL-CONNECTED ATTORNEY IN WINDHOEK PROVIDED US INDEPENDENTLY WITH THE SAME INFORMATION. HE SAID, HOWEVER, THAT R 17 WOULD BE REPLACED WITH A SIMILAR, THOUGH NOT SO STRINGENT MEASURE.

3. PROCLAMATION R 17, WHICH WAS PROMULGATED IN 1972, IS PROBABLY THE MOST CONTROVERSIAL REGULATION STILL IN FORCE IN NAMIBIA. IT APPLIES ONLY TO OVAMBO, BUT AS SUCH AFFECTS MORE THAN 40 PCT OF THE NAMIBIAN POPULATION AND THE PRIMARY AREA OF SWAPO SUPPORT. SOME OF THE PROVISIONS INCLUDED IN THE REGULATIONS ARE A PROHIBITION OF MEETINGS, EXTREMELY TIGHT TRAVEL RESTRICTIONS REQUIRING PERMISSION FOR ANY PERSON TO ENTER OR LEAVE THE AREA, ARREST WITHOUT WARRANT AND INDEFINITE DETENTION WITHOUT CHARGES ON ORDER OF ANY NATIVE COMMISSIONER OR SOUTH AFRICAN POLICE OFFICER OR NON-COMMISSIONED OFFICER, WITH NO RECOURSE TO COURTS OR RIGHT TO CONSULT A LAWYER. THE REGULATIONS ALSO GIVE CONSIDERABLE POWERS TO CHIEFS AND HEADMEN, WHOSE ACTIONS UNDER THE REGULATIONS ARE ALSO EXEMPTED FROM COURT REVIEW.
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4. COMMENT: THE REPEAL OF R 17, WHICH NOW APPEARS IMMINENT, WILL BE ONE OF THE MOST SIGNIFICANT ACTIONS YET UNDERTAKEN BY ADMINISTRATOR GENERAL STEYN. AT THE TIME OF THE ADMINISTRATOR-GENERAL'S APPOINTMENT, MOST OBSERVERS IN WINDHOEK BELIEVED HE WOULD NOT TAMPER WITH SENSITIVE MEASURES SUCH AS THESE (PRETORIA 4501). MOREOVER, STEYN WAS EVIDENTLY UNDER PRESSURE FROM BOTH THE MILITARY AND SOME TRADITIONAL CHIEFS AND TURNHALLE LEADERS NOT TO REPEAL THE REGULATIONS. WE DO NOT KNOW HOW MANY NAMIBIANS ARE BEING HELD UNDER R 17, OR WHAT EFFECT ITS POSSIBLE REPEAL WILL HAVE ON THEM.

5. MANY SOUTH AFRICAN LAWS WITH SOME OF THE SAME REPRESSIVE PROVISIONS AS R 17, SUCH AS THE TERRORISM ACT, REMAIN IN FORCE IN NAMIBIA. THE ADMINISTRATOR GENERAL HAS NOT YET ASSUMED AUTHORITY OVER THE SOUTH AFRICAN POLICE OR COURTS IN THE TERRITORY, AND THE POLICE ARE PRESUMABLY STILL FREE TO ACT UNDER THESE SOUTH AFRICAN SECURITY LAWS. THERE ARE, IN FACT, A NUMBER OF POLITICAL DETAINEES IN NAMIBIA HELD UNDER SOUTH AFRICAN SECURITY LAWS (PRETORIA 3808), AND THE

TRIAL OF VICTOR NKANDI UNDER THE TERRORISM ACT IS
IN PROGRESS IN WINDHOEK (REFTEL). AS LONG AS AN
INTERNATIONAL AGREEMENT ON NAMIBIA SEEMS POSSIBLE,
HOWEVER, THE ADMINISTRATOR-GENERAL AND THE SAG MAY WELL
BE RELUCTANT TO EMPLOY SOUTH AFRICAN SECURITY LAWS
IN NEW CASES. IT REMAINS TO BE SEEN WHAT IF ANY NEW
REGULATIONS WILL REPLACE R 17.
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